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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/730,614

12/06/2000

David Coupe

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7401

(END920000139US1)

7590

03/29/2004

EXAMINER

JUNG, MIN

Richard L. Catania., Esq.
Scully, Scott, Murphy & Presser
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Garden City, NY 11530

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/730,614

Applicant(s)

COUPE ET AL.

Examiner

Min Jung

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2-3, it is not clear if the partial transport stream comprises the removed data or the remaining data after the removal. At line 12, "said flag" lacks antecedent basis.

In claim 10, lines 2-3, it is not clear if the partial transport stream comprises the removed data or the remaining data after the removal.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 9-11, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinett et al., 6,351,474 (Robinett).

Robinett discloses a remultiplexer for video program bearing transport streams. Specifically, Robinett teaches a transport stream demultiplexer device receiving an input transport stream comprising a plurality of data packets (Fig. 1) and including a filter device (processor 160 performing PID handler subroutine, or PID filter map and data link control circuit 112) for removing one or more predetermined packets to form a partial transport stream (col. 40, lines 33-42), a real-time data remultiplexing system comprising: a mechanism for directly retrieving packet data having new content from a memory storage device (col. 12, lines 65 – col. 13, line 2, col. 13, lines 8-17, col. 40, lines 48-51, lines 58-62), and storing the retrieved packet data into a staging buffer device (transport packet pool 12 in Fig. 2) for queued storage prior to insertion into the partial transport stream (col. 41, lines 10-13); and a multiplexer device for pulling a queued data packet from the staging buffer device and inserting the pulled packet into the gap as the partial transport stream is being transported on a real-time basis (col. 41, lines 13-16), wherein the retrieving mechanism enables concurrent refilling of the staging buffer as queued data is pulled from the buffer (inherent from the overall teaching at col. 41, lines 10-28, normal operation of the FIFO buffer dictates that buffer be refilled as the buffer space gets available and there is data available to fill it). See cols. 40-42.

Further, Robinett teaches MPEG-2 transport streams. Therefore, the transport stream taught in Robinett includes audio, video, and navigation data.

Robinett lacks specific teaching of mechanism for detecting presence of a gap in the partial transport stream where predetermined packets have been removed and

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generating a signal indicating the gap location. Robinett does not have specific detecting function because in Robinett, as the null packets are removed, such information is incorporated into the PID handler subroutine for use in multiplexing extra data such as program data, PSI, ECM, EMM, or bursty data. In so doing, the timing information is inherently provided by the PID handler subroutine. Thus, in Robinett, generation of signal indicating the gap location is not necessary. However, the multiplex timing by specifying the gap location can be achieved in Robinett without affecting the scope of the invention simply by providing a separate gap detecting mechanism. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to implement the teaching of Robinett by providing a gap detecting mechanism after the gaps have been created by the removal of null packets, instead of utilizing the PID handler subroutine, for the purpose of providing timing for multiplexing operation.

Allowable Subject Matter

5. Claims 3-8, 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Robinett et al. patent, the Slattery patent, the Yee et al.

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patent, the Arazi et al. patent, the Lyons et al. patent, the Naimpally patent, the Movshovich et al. patent, and the Anderson et al. patent are cited for further references.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 703-305-4363.

The examiner can normally be reached on Monday-Friday, 7AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ
March 22, 2004


Min Jung
Primary Examiner